

NOT FOR PUBLICATION

NOV 24 2009

UNITED STATES COURT OF APPEALS

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,)	No. 09-30028
)	
Plaintiff – Appellee,)	D.C. No. 2:08-CR-00036-RSL-1
)	
v.)	MEMORANDUM*
)	
JOSE LUCAS ZAMORA,)	
)	
Defendant – Appellant.)	
_____)	

Appeal from the United States District Court
for the Western District of Washington
Robert S. Lasnik, Chief District Judge, Presiding

Submitted November 2, 2009**
Seattle, Washington

Before: ALARCÓN, FERNANDEZ, and CLIFTON, Circuit Judges.

Jose Lucas Zamora appeals his conviction for conspiracy, possession with intent to distribute, and distribution of methamphetamine. See 21 U.S.C. §§ 841, 846. We affirm.

*This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

**The panel unanimously finds this case suitable for decision without oral argument. Fed. R. App. P. 34(a)(2).

Zamora asserts that his rights under Batson¹ were violated when the government exercised a peremptory challenge as to one of the prospective jurors in the venire. We disagree.

The district court did apply the correct legal standard in determining whether Zamora had established a prima facie case of discrimination. See *Boyd v. Newland*, 467 F.3d 1139, 1143 (9th Cir. 2006). Therefore, we review the decision for clear error. See *United States v. Collins*, 551 F.3d 914, 919 (9th Cir. 2009); *Tolbert v. Page*, 182 F.3d 677, 685 (9th Cir. 1999) (en banc). The district court did have broad discretion when determining what factors were relevant under the circumstances,² did not impede defense counsel's explanation of his position,³ and properly determined that the circumstances "eroded" the allegations of discrimination.⁴ Thus, the district court did not clearly err when it determined that Zamora had not spelled out a prima facie case of discrimination.

AFFIRMED.

¹Batson v. Kentucky, 476 U.S. 79, 95–97, 106 S. Ct. 1712, 1722–23, 90 L. Ed. 2d 69 (1986).

²See United States v. Vasquez-Lopez, 22 F.3d 900, 902 (9th Cir. 1994).

³See *Paulino v. Castro*, 371 F.3d 1083, 1089–90 (9th Cir. 2004).

⁴Williams v. Runnels, 432 F.3d 1102, 1107–09 (9th Cir. 2006).